

UNITED STATES
PATENT AND TRADEMARK OFFICE



Patent Public Advisory Committee Quarterly Meeting

Examination Policy Updates

Office of the Deputy Commissioner for Patent Examination Policy

John Cottingham, Director of the Office of Petitions

Brian Hanlon, Director of the Office of Patent Legal Administration

August 20, 2015

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Patent Public Advisory Committee Quarterly Meeting

Office of Petitions Update

John Cottingham
Director, Office of Petitions

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Inventor's Assistance Center

- The Inventor's Assistance Center has new expanded hours effective as of August 17, 2015
- Open now from 8:30am to 8:00pm Eastern Time M-F
- To support our Enhanced Patent Quality Initiative and provide excellent customer service across the country

Current Petitions Dashboard

- www.uspto.gov/dashboards/patents/main.dashxml

Patents Dashboard



Petitions Dashboard



Frequently Filed Petitions in the Office of Petitions

Petition Type	Avg Days Pending of Decided Petitions in the Past 12 Months	Grant Rate Percent of Total Petitions Decided in the Past 12 Months
To Make Entity Status Large from Small	172	68%
To Join Track One (Prioritized Examination)	36	94%
To Join Patent Prosecution Highway (PPH)	125	78%
To Make Application Special on Grounds of Age or Health	132	93%
Revival Based on Unintentional Delay in Abandoned Application	138	81%
To Accept Unintentionally Delayed Claim for Priority	118	65%
Withdrawal of Attorney From Application	141	37%
Issue Patent in the Name of Assignee After the Issue fee is Paid	196	81%
To Accept Unintentional Delayed Payment of the Maintenance Fee	132	73%
Patent Term Adjustment After Patent Issued	346	42%

The patent term adjustment petitions were delayed due to the Federal Circuit deciding *Novartis AG v. Lee* and these petitions are currently being processed.

Petitions Dashboard

E-Petitions and Non-E-Petitions Data

Petition Type	Total E-Petitions Decided/Filed in Past 12 Months	Average Days Pending of E-Petitions	Grant Rate Percent of Total E-Petitions Decided in the Past 12 Months	Total Non-E-Petitions Decided in the Past 12 Months	Average Days Pending of Non-E-Petitions Decided in the Past 12 Months	Grant Rate Percent of Total Non-E-Petitions Decided in the Past 12 Months
To Make Application Special on Grounds of Age or Health	1,302	0	100%	1,795	89	93%
Revival based on Unintentional delay in abandoned application	835	0	100%	3,189	117	81%
Revive Abandoned Application for Failure to Notify the USPTO of Foreign Filing	75	0	100%	48	116	85%
Revive a Patent Application for Continuity Purposes Only When Abandoned Unintentionally	59	0	100%	53	132	98%
Withdrawal of Attorney From Application	1,465	0	100%	829	134	37%
Withdraw Application From Issue After Issue Fee is Paid	1,854	0	100%	294	0	82%
Revive Patent Application for Unintentional Late Payment of the Issue Fee	557	0	100%	950	104	82%
Withdraw From Issue Patent Application With Patent Number Assigned	2,607	0	100%	376	0	93%
Withdraw Patent Application From issue to Expressly Abandon	20	0	100%	13	0	100%
Issue Patent in the Name of Assignee After the Issue Fee is Paid	103	0	100%	462	135	81%
To Accept Unintentional Delayed Payment of the Maintenance Fee	13,242	0	100%	725	112	73%

For additional information on the above petitions, please [click here](#).



Patents Petitions Timeline

- <http://www.uspto.gov/patents-application-process/petitions/timeline/uspto-petitions-timeline>

Patents Petitions Timeline

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USPTO Petitions Timeline

The **USPTO Petitions Timeline** provides applicants access to petitions that can be submitted during each stage of patent prosecution process and information related to each specific petition and deciding office. Also, the timeline provides information on both the historical grant rates and the pendency of decided petitions.

1	PRIOR TO EXAMINATION	PRIOR TO EXAMINATION
2	DURING EXAMINATION	<ul style="list-style-type: none">• Abandonment Related• Access• Advancement of Examination• Application Publications• Assignee Related• Conversion of Applications• Correction of Inventorship• Entity Status• Expunging Papers• Extensions of Time• Filing Date Related• Foreign Priority or Domestic Benefit Related• General and Misc.• Public Use Related• Retroactive Foreign Filing Licenses• Specifically Related To International Applications• Suspension or Waiver of Rules (not provided for in any Statute)• Withdrawal of Attorney Related
3	AFTER CLOSE OF PROSECUTION	
4	ALLOWANCE/AFTER PAYMENT OF ISSUE FEE	
5	POST ISSUANCE	

DURING EXAMINATION



Patents Petitions Timeline

1	PRIOR TO EXAMINATION
2	DURING EXAMINATION
3	AFTER CLOSE OF PROSECUTION
4	ALLOWANCE/AFTER PAYMENT OF ISSUE FEE
5	POST ISSUANCE

- General and Misc
- Public Use Related
- Retroactive Foreign Filing Licenses
- Specifically Related To International Applications
- Suspension or Waiver of Rules (not provided for in any Statute)
- Withdrawal of Attorney Related

DURING EXAMINATION

- Abandonment Related
- Access
- Advancement of Examination
- Application Publications
- Assignee Related
- Conversion of Applications
- Correction of Inventorship
- Entity Status
- Expunging Papers
- Extensions of Time
- Filing Date Related
- Foreign Priority or Domestic Benefit Related
- General and Misc
- Public Use Related
- Retroactive Foreign Filing Licenses
- Suspension or Waiver of Rules (not provided for in any Statute)
- Withdrawal of Attorney Related

AFTER CLOSE OF PROSECUTION

- Abandonment Related
- Access
- Assignee Related
- Correction of Inventorship
- Entity Status
- Expunging Papers
- Extensions of Time

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Patents Petitions Timeline

Prior to Examination

Petition Type	Avg. Days Pending of Decided Petitions	Grant Rate Percentage	Deciding Office
220 - To Excuse a Delay in a Hague Application	None	None	IPLA
272 - To Revive an Abandoned International Application - Unintentional Delay 37 CFR 1.137(a)	47	88%	IPLA
273 - Withdrawal a Holding of Abandonment - 37 CFR 1.181	104	81%*	IPLA
529 - To Withdraw a Holding of Abandonment in Pre-Exam Status (37 CFR 1.181) - Failure to receive an Office Action	154	23%	OPET
529 - To Withdraw a Holding of Abandonment in Pre-Exam Status (37 CFR 1.181) - Reply Timely Filed			
Please scroll to the top of this page to view other Petition Types that are available during this stage.			

*Infrequently Filed Petition

This is a 12 Month Rolling Average.
The data is current as of August 1, 2015 and is updated quarterly.

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Patents Petitions Timeline

Abandonment Related Petitions

IPLA – International Patent Legal Administration
ODM – Office of Data Management
OPET – Office of Petitions
TC – Technology Center

Generally Available

Petition Type	Avg. Days Pending of Decided Petitions	Grant Rate Percentage	Deciding Office
502 - To Revive an Abandoned Application-Unintentional Delay (37 CFR 1.137(a))	113	85%	OPET
510 - To Accept Late Payment of Issue Fee - Unintentional Late Payment (37 CFR 1.137(a))	81	88%	OPET
525 - To Withdraw a Holding of Abandonment (37 CFR 1.181) - Failure to receive an Office Action	180	52%	OPET
525 - To Withdraw a Holding of Abandonment (37 CFR 1.181) - Reply Timely Filed			
536 - Under 37 CFR 1.137(f)	58	95%*	OPET
561 - Revive Abandoned Application, Continuity Purposes Only	71	99%	OPET
613 - Relating to Withdraw of holding of Abandonment (37 CFR 1.137, MPEP 711.03)	57	33%*	TC
614 - To Withdraw a Holding of Abandonment (MPEP 711)	55	79%*	TC
650 - For Express Abandonment under 37 CFR 1.138(c)	20	69%*	ODM
651 - For Express Abandonment under Rule 37 CFR 1.138(d)	25	78%*	ODM



Questions and Comments

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Subject Matter Eligibility Update

- Update to the 2014 Interim Eligibility Guidance issued July 30
 - Addresses the five major themes from the public comments
 - Includes new set of examples, chart of all existing examples, and chart of relevant court decisions from the Supreme Court and the Federal Circuit
 - Opens a new 90 day period for public comment
- Will continue to monitor decisions and listen to feedback for further iterations
 - Currently working on life science examples and monitoring status of *Sequenom*

Training

- Training related to 35 U.S.C. 112 and the Executive Actions
 - Examining Functional Claim Limitations: Focus on Computer/Software-related Claims – *completed*
 - Examining Claims for Compliance with 35 U.S.C. 112(a): Overview and Part I – Written Description, Focus on Electrical/Mechanical and Computer/Software-related Claims – *CBT completed, workshops in process*
 - Examining Claims for Compliance with 35 U.S.C. 112(a): Part II – Enablement, Focus on Electrical/Mechanical and Computer/Software-related Claims – *CBT in production*
- Next module: 35 U.S.C. 112(b)

Questions and Comments

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